

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10265 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAHANT SHRI SATYARAMDASJI      SHASTRI GURU SOHAMDASJI

Versus

STATE OF GUJARAT

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Appearance:

MR AS VAKIL FOR MR SB VAKIL for Petitioners

MR AJ DESAI, AGP for Respondent No. 1

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CORAM : MR.JUSTICE R.BALIA.

Date of decision: 03/04/97

ORAL JUDGEMENT

1. In respect of land belonging to Kabir Saheb Mandir Trust of which petitioners Nos. 1 to 4 are trustees, an application was made before the State Government under Section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 for seeking exemption from the provisions of the ULC Act regarding prohibition against the transfer of land, on 27.3.1983 which exemption was

granted by order dated 17.6.1991 in respect of 67887 sqmts. of land. The Joint Charity Commissioner, Baroda also granted permission for such sale to the trust under Section 36 of the Bombay Public Trust Act. In furtherance of this permission, petitioner's executed agreement to sale 900 sqmts of land in question in favour of petitioner No.5 which could not be registered within the time prescribed due to pending litigation in that regard and interim orders passed therein, reference to which has been made in this petition. In view thereof, the petitioners moved an application on 1.4.1994 to the Government for extension of time for two years for executing registered sale deed of the remaining exempted land as sale deed was not executed. By order dated 3.8.1995, the Government rejected that application inter alia on the ground that in view of the decision of the Supreme Court in S. Vasudevan Vs. State of Karnataka reported in 1993(3) SCC 497, State Government has no power to extend the period within which transfer of the exempted land could take place. It is this order which is under challenge in this petition.

2. It has been brought to notice that since the filing of petition decision in S.Vasudevan's case has been upturned by the Supreme Court by a Larger Bench on review petition. The judgement of the Supreme Court has been reported in JT 1996(4) SC 49. In view thereof the foundation of the impugned order now no more exists. This position is not disputed by learned counsel for the respondent.

3. In view thereof as the foundation on which the impugned order was made no more exists, the order cannot be allowed to stand and deserves to be quashed on this ground alone. So I do. It will now be for the State Government to consider the application of the petitioners for extension of time on merits in accordance with law. Rule made absolute. No order as to costs.